

ORIGINAL

(60)
5-7-02
SC

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

**United States Fidelity and
Guaranty Company,**
Plaintiff

v.

**Bruce J. Brown and Brown,
Schultz, Sheridan & Fritz,**
Defendants

Civil No. 1:01-CV-0813

**FILED
HARRISBURG, PA**

MAY 06 2002

(Judge Kane)

**MARY E. ANDREA, CLERK
Per BB**

✓(Magistrate Judge Smyser)

**JOINT MOTION FOR A LIMITED MODIFICATION OF THE CASE
MANAGEMENT ORDER**

The parties hereby jointly request that the Court modify the case management order to extend the deadline for completion of discovery as well as the corresponding deadlines for submission of expert reports and the filing of dispositive motions. In support of the motion the parties state:

1. This is an action in which Plaintiff, a company that issued surety credit to a construction company, seeks to recover damages from the defendant accountants for alleged negligent misrepresentations contained in three years of audited financial statements prepared by defendants for CCI Construction Company.
2. Plaintiff claims that it issued 19 sets of payment and performance bonds to

CCI Construction Company in reliance on the audited financials and alleges it has sustained over \$31,000,000 in losses as a result.

3. Discovery has been proceeding with the parties exchanging their self-executing disclosures as well as responding to formal written discovery, including interrogatories and requests for production of documents.

4. Defendants have produced to plaintiff their audit workpapers for the years at issue as well as other files in their possession relating to CCI.

5. Plaintiff initially produced its underwriting materials and, subsequently, produced the takeover agreements and proof of claim filed in CCI's bankruptcy proceeding. Thereafter, Plaintiff produced fifty nine boxes of documents from their offices in Baltimore and Richmond. The production, initial review and scanning of those documents took a number of weeks and is now complete.

6. Defendants, now that they have those documents in their possession, are in the process of further reviewing those documents. Defendants require additional time to review and assimilate these materials.

7. Both parties have propounded follow up written discovery based on information obtained during discovery. Responses to those requests are due shortly. The parties will likely require additional time to review and assimilate those materials and conduct what limited follow up discovery may be necessary as a result of those responses.

8. In addition to written discovery, a number of depositions of party witnesses have been taken by the parties and several other party depositions have been noticed

and third party witnesses subpoenaed for deposition.

9. Due to the schedules of the witnesses and counsel, it has been difficult to schedule the depositions and will not be possible to complete these depositions within the time remaining notwithstanding the parties' efforts to do so. The parties seek additional time in which to conduct depositions and take steps necessary to obtain documents from third parties. Currently, the period for discovery is scheduled to conclude on May 15, 2002.

10. Given the complexity of the case, the magnitude of plaintiff's alleged damages, the volume of documents produced and the deposition discovery completed to date, as well as the parties' diligence in pursuing discovery, there is good cause for the extension of the deadlines in the case management order.

11. The parties jointly request that the schedule be modified as follows:

	<u>Requested extension</u>	<u>Current deadline</u>
Discovery Deadline	June 21, 2002	May 15, 2002
Plaintiff's Expert Report	July 22, 2002	July 1, 2002
Defendant's Expert Report	August 22, 2002	August 1, 2002
Dispositive Motions	August 30, 2002	August 15, 2002

12. The foregoing modifications will not affect the remaining dates in the case management order including the due date for motions in limine and the dates for the final pre-trial conference and trial.

WHEREFORE, the parties jointly request that the court enter an order

extending the discovery, expert report and dispositive motion deadlines as set forth above.

Respectfully submitted,

SWARTZ, CAMPBELL & DETWEILER

BY: Kathleen M. Carson

Jeffrey B. McCarron
Kathleen M. Carson
1601 Market Street
34th Floor
Philadelphia, PA 19103
(215) 299-4272

Attorneys for Defendants, Bruce Brown
and Brown, Schultz, Sheridan & Fritz

BERNKOPF, GOODMAN & BASEMAN

BY: Bruce Levin / KMC

Peter McGlynn
Bruce Levin
125 Summer Street
Boston, MA 02110-1621
(617) 790-3000

Attorneys for Plaintiff,
United States Fidelity & Guaranty Company

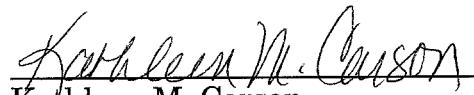
Dated: May 3, 2002

CERTIFICATE OF SERVICE

I, Kathleen M. Carson, Esquire, counsel for defendants, Bruce J. Brown and Brown, Schultz Sheridan & Fritz, hereby certify that a copy of The Joint Motion for Limited Modification of the Case Management Order, was served upon all counsel listed below by first class U.S. mail, postage prepaid on May 3, 2002.

Jeffrey Rettig, Esquire
Thomas, Thomas & Hafer
305 North Front Street
Harrisburg, PA 17101

Peter B. McGlynn, Esquire
Bruce D. Levin, Esquire
Bernkopf, Goodman & Baseman LLP
125 Summer Street, Suite 1300
Boston, MA 02110



Kathleen M. Carson

Date: May 3, 2002